

“transportation plan” taken to mean the statewide transportation plan.

(3) The requirements of §§93.124 and 93.127 which reference “transportation plan” or “TIP” shall be taken to mean those projects in the statewide transportation plan or statewide TIP which are in the nonattainment or maintenance area (or portion thereof).

(4) The requirement of §93.129(b) shall be satisfied if:

(i) The project is included in the regional emissions analysis which includes all regionally significant highway and transportation projects in the nonattainment or maintenance area (or portion thereof) and supports the most recent conformity determination made according to the requirements of §§93.120, 93.124, or 93.127 (as modified by paragraphs (d)(2) and (d)(3) of this section), as appropriate for the time period and pollutant; and

(ii) The project’s design concept and scope have not changed significantly from those which were included in the regional emissions analysis, or in a manner which would significantly impact use of the facility.

(e) *PM₁₀ from construction-related fugitive dust.* (1) For areas in which the implementation plan does not identify construction-related fugitive PM₁₀ as a contributor to the nonattainment problem, the fugitive PM₁₀ emissions associated with highway and transit project construction are not required to be considered in the regional emissions analysis.

(2) In PM₁₀ nonattainment and maintenance areas with implementation plans which identify construction-related fugitive PM₁₀ as a contributor to the nonattainment problem, the regional PM₁₀ emissions analysis shall consider construction-related fugitive PM₁₀ and shall account for the level of construction activity, the fugitive PM₁₀ control measures in the applicable implementation plan, and the dust-producing capacity of the proposed activities.

[58 FR 62235, Nov. 24, 1993, as amended at 60 FR 57186, Nov. 14, 1995]

§93.131 Procedures for determining localized CO and PM₁₀ concentrations (hot-spot analysis).

(a) In the following cases, CO hot-spot analyses must be based on the applicable air quality models, data bases, and other requirements specified in 40 CFR part 51, Appendix W (“Guideline on Air Quality Models (Revised)” (1988), supplement A (1987) and supplement B (1993), EPA publication no. 450/2-78-027R), unless, after the inter-agency consultation process described in §93.105 and with the approval of the EPA Regional Administrator, these models, data bases, and other requirements are determined to be inappropriate:

(1) For projects in or affecting locations, areas, or categories of sites which are identified in the applicable implementation plan as sites of current violation or possible current violation;

(2) For those intersections at Level-of-Service D, E, or F, or those that will change to Level-of-Service D, E, or F because of increased traffic volumes related to a new project in the vicinity;

(3) For any project involving or affecting any of the intersections which the applicable implementation plan identifies as the top three intersections in the nonattainment or maintenance area based on the highest traffic volumes;

(4) For any project involving or affecting any of the intersections which the applicable implementation plan identifies as the top three intersections in the nonattainment or maintenance area based on the worst Level-of-Service; and

(5) Where use of the “Guideline” models is practicable and reasonable given the potential for violations.

(b) In cases other than those described in paragraph (a) of this section, other quantitative methods may be used if they represent reasonable and common professional practice.

(c) CO hot-spot analyses must include the entire project, and may be performed only after the major design features which will significantly impact CO concentrations have been identified. The background concentration

can be estimated using the ratio of future to current traffic multiplied by the ratio of future to current emission factors.

(d) PM_{10} hot-spot analysis must be performed for projects which are located at sites at which violations have been verified by monitoring, and at sites which have essentially identical vehicle and roadway emission and dispersion characteristics (including sites near one at which a violation has been monitored). The projects which require PM_{10} hot-spot analysis shall be determined through the interagency consultation process required in § 93.105. In PM_{10} nonattainment and maintenance areas, new or expanded bus and rail terminals and transfer points which increase the number of diesel vehicles congregating at a single location require hot-spot analysis. DOT may choose to make a categorical conformity determination on bus and rail terminals or transfer points based on appropriate modeling of various terminal sizes, configurations, and activity levels. The requirements of this paragraph for quantitative hot-spot analysis will not take effect until EPA releases modeling guidance on this subject and announces in the FEDERAL REGISTER that these requirements are in effect.

(e) Hot-spot analysis assumptions must be consistent with those in the regional emissions analysis for those inputs which are required for both analyses.

(f) PM_{10} or CO mitigation or control measures shall be assumed in the hot-spot analysis only where there are written commitments from the project sponsor and/or operator to the implementation of such measures, as required by § 93.133(a).

(g) CO and PM_{10} hot-spot analyses are not required to consider construction-related activities which cause temporary increases in emissions. Each site which is affected by construction-related activities shall be considered separately, using established "Guideline" methods. Temporary increases are defined as those which occur only during the construction phase and last five years or less at any individual site.

§ 93.132 Using the motor vehicle emissions budget in the applicable implementation plan (or implementation plan submission).

(a) In interpreting an applicable implementation plan (or implementation plan submission) with respect to its motor vehicle emissions budget(s), the MPO and DOT may not infer additions to the budget(s) that are not explicitly intended by the implementation plan (or submission). Unless the implementation plan explicitly quantifies the amount by which motor vehicle emissions could be higher while still allowing a demonstration of compliance with the milestone, attainment, or maintenance requirement and explicitly states an intent that some or all of this additional amount should be available to the MPO and DOT in the emission budget for conformity purposes, the MPO may not interpret the budget to be higher than the implementation plan's estimate of future emissions. This applies in particular to applicable implementation plans (or submissions) which demonstrate that after implementation of control measures in the implementation plan:

(1) Emissions from all sources will be less than the total emissions that would be consistent with a required demonstration of an emissions reduction milestone;

(2) Emissions from all sources will result in achieving attainment prior to the attainment deadline and/or ambient concentrations in the attainment deadline year will be lower than needed to demonstrate attainment; or

(3) Emissions will be lower than needed to provide for continued maintenance.

(b) If an applicable implementation plan submitted before November 24, 1993 demonstrates that emissions from all sources will be less than the total emissions that would be consistent with attainment and quantifies that "safety margin," the State may submit a SIP revision which assigns some or all of this safety margin to highway and transit mobile sources for the purposes of conformity. Such a SIP revision, once it is endorsed by the Governor and has been subject to a public hearing, may be used for the purposes